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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/069,371

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Michael Roberts

Roberts 7-9

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Docket Administrator - Room 3D-201E

Alcatel-Lucent USA Inc.

600-700 Mountain Avenue

Murray Hill, NJ 07974

EXAMINER

WILSON, ROBERT W

ART UNIT

PAPER NUMBER

2475

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/069,371	<b>Applicant(s)</b> ROBERTS ET AL.	
	<b>Examiner</b> ROBERT W. WILSON	<b>Art Unit</b> 2475	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/22/09</u> .  | 6) <input type="checkbox"/> Other: _____                          |

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***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 & 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over HUUSKO (WO 98/37721) in view of ERNAN (WO 99/08392) which is an IDS document of record further in view of Rune (U.S. Patent No.: 6,275,706)

Referring to claim 1, HUUSKO teaches: a packet switched network architecture (Fig 2 or packet switched network architecture) comprising: a common location area connected by a radio access network to at least two core networks having the same functionality (C1 or C2 or C3 or C4 per Fig 2 are each independently a common location area. C1 or C2 or C3 or C4 are connected to BS and TN per Fig 2 which is the radio access network. The two core networks are the B-ISDN/UMTS CN and the PDN/UMTS CN which have the same functionality because each is capable of routing packets)

wherein the radio access network switches packet transmission from each terminal in a location area to at least two core networks wherein the radio access network switches packet transmission from each terminal to at least each core network (The RAN switches the MS or terminal to one of the core networks per col. 10 line 13 to col. 11 line 9.)

HUUSKO does not expressly call for: switching based on capacity or wherein each of said core network is distinguished by a location area identifier including a core network identifier

ERNAN teaches: switching based on capacity (dispatching switch switches based upon capacity per Pg 3 line 8 to Pg 4 line 10 and Pg 7 line 11 to Pg 8 line 29)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the switching based upon capacity of ERNAN to the processing of HUUSKO in order to balance the load.

The combination of HUUSKO and ERNAN do not expressly call for: wherein each of said core network is distinguished by a location area identifier including a core network identifier

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Rune teaches: wherein each of said core network is distinguished by a location area identifier including a core network identifier (location area identifier and network identifier or core network identifier per col. 11 lines 38-55)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the core network is distinguished by a location area identifier including a core network identifier of Rune to the processing of the combination of HUUSKO and ERNAN in order to be able to keep track of the mobile stations in the network.

Referring to claim 4, HUUSKO teaches: a method of allocating resources in a packet switched network (Figure 2 performs the method) comprising: allocating at least two core network having same functionality to a common location area (The two core networks are the B-ISDN/UMTS CN and the PDN/UMTS CN which have the same functionality because each is capable of routing packets. Both B-ISDN and PDN/UMTS are allocated to C1 or C2 or C3 or C4 per Fig . C1 or C2 or C3 or C4 are each independently a common location area)

Associating each mobile user in the location area with one of the core networks (The RAN switches the MS or terminal to one of the core networks per col. 10 line 13 to col. 11 line 9.)

And switching by the radio access network packet transmission from a mobile user in the location area to one of the core networks (The RAN switches the MS or terminal which is in C1 or C2 or C3 or C4 or location area to one of the core networks per col. 10 line 13 to col. 11 line 9.)

HUUSKO does not expressly call for: switching based on capacity or wherein each of said core network is distinguished by a location area identifier including a core network identifier

ERNAN teaches: switching based on capacity (dispatching switch switches based upon capacity per Pg 3 line 8 to Pg 4 line 10 and Pg 7 line 11 to Pg 8 line 29)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the switching based upon capacity of ERNAN to the processing of HUUSKO in order to balance the load.

The combination of HUUSKO and ERNAN do not expressly call for: wherein each of said core network is distinguished by a location area identifier including a core network identifier

Rune teaches: wherein each of said core network is distinguished by a location area identifier including a core network identifier (location area identifier and network identifier or core network identifier per col. 11 lines 38-55)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the core network is distinguished by a location area identifier including a core network identifier

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of Rune to the processing of the combination of HUUSKO and ERNAN in order to be able to keep track of the mobile stations in the network.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over HUUSKO (WO 98/37721) in view of ERNAN (WO 99/08392) which is an IDS document of record in view of Rune (U.S. Patent No.: 6,275,706) further in view of Salminen (U.S. Patent No.: 6,463,286)

4. Referring to claim 3, the combination of HUUSKO, ERNAN, and Rune: teaches the packet switched network of claim 1 and core network

5. The combination of HUUSKO, ERNAN, and Rune do not expressly call for: network includes a mobile switching center (MSC) comprising a visitor location register (VLR), the VLR determining capacity of the respective core networks

Salminen teaches: network includes a mobile switching center (MSC) comprising a visitor location register (VLR), the VLR determining capacity of the respective core networks (the MSC and VLR determine capacity per col. 7 line 15 to col. 9 line 35) 1. )

It would have been obvious to one of ordinary skill in the art at the time of the invention to add network includes a mobile switching center (MSC) comprising a visitor location register (VLR), the VLR determining capacity of the respective core networks of Salminen to the network architecture of the HUUSKO, ERNAN, and Rune in order to support roaming between access networks.

6. Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over HUUSKO (WO 98/37721) in view of ERNAN (WO 99/08392) further in view of Rune (U.S. Patent No.: 6,275,706) further in view of Boudreaux (U.S. Patent No.: 6,466,556)

Referring to claim 7, the combination of HUUSKO, ERNAN, and Rune teaches the packet switched network of claim 1 and core network

The combination of HUUSKO, ERNAN, and Rune do not expressly call for: 2G functionality in the core networks

Bordreux teaches: 2G functionality in core network

It would have been obvious to one of ordinary skill in the art at the time of the invention to add 2G functionality of Bordreux in to the two core networks of the combination of HUUSKO,

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ERNAN, and Rune in order to build a network which is based upon a standard and will be interoperable with legacy systems which are standards based

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 3, 4, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Referring to claim 1, claim 1 is a narrative because the claim fails to define any post processing solution that defines what is accomplished by the claim. Additionally, what is meant by “the location area”? Does applicant mean “common location area”? What is meant on “in dependence of capacity”? Is the applicant trying to say not dependent on capacity; however, “in dependence of capacity” can also be interpreted as “dependent on capacity”. What is meant by a “respective core network”? Is a “respective core network” one of the two core networks? What is meant by “wherein from each terminal”? In this instance “each terminal” has antecedent basis. Is applicant trying to say “wherein .... from the each terminal”?

Referring to claim 3, this claim is also a narrative because it is unclear what the post processing solution of this claim is because the VLR determine a capacity but for what result. Additionally "respective core network" is also unclear.

Referring to claim 4, claim 4 is a narrative because the claim fails to define any post processing solution that defines what is accomplished by the claim. Additionally, what is meant by “the location area”? Does applicant mean “common location area”? What is meant on “in dependence of capacity”? Is the applicant trying to say not dependent on capacity; however, “in dependence of capacity” can also be interpreted as “dependent on capacity”. What is meant by "each mobile user" and "a mobile user" are they the same mobile user or different mobile user.

Referring to claim 7, what is meant by “in which said at least two core networks are second generation”. The examiner cannot assess the metes and bound of this claim because applicant has not provided a copy of the 2G standard in the case that can be used as the basis for assessing the

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metes and bounds of the case. Applicant has also failed to provide a revision level associated with the standard. Applicant is only entitled to what was known at the time of the invention and not open ended version of standards. Applicant need to define what date and revision level and also a copy of the document so that the metes and bounds of the claim can be assessed and the record is clear as to what the applicant is claiming.

***Claim Rejections - 35 USC § 112***

10. Claims 1, 3, 4, & 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims 1 and 4, the examiner interpretation of the specification is that location area identifier is used to identify a group of cells in space as the location of the terminal or mobile user. The examiner interpretation of the core network identifier is used to identify the core network which the mobile user or terminal is coupled. The examiner believes that the location identifier and core network identifier field are used to distinguish a terminal or mobile user and not core network; consequently, the examiner asserts that "wherein each of said core networks is distinguished by a location identifier including a core network identifier field" is new matter without adequate written description.

***Claim Rejections - 35 USC § 101***

11. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. Claim 4 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Referring to claim 4, claim 4 is directed to a method which is a narrative or description and is non-statutory subject matter because the method lacks physical structure to perform a significant step of the method.

***Response to Amendment***

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13. Applicant's arguments with respect to claims 1, 3, 4, & 7 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT W. WILSON whose telephone number is (571)272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dang Ton can be reached on 571/272-3171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert W Wilson/  
Primary Examiner, Art Unit 2475

RWW  
1/8/09